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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,195	03/29/2001	Timothy C. Loose	47079-00086	4522

30223 7590 09/22/2004

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EXAMINER	
MOSSER, ROBERT E	
ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/821,195	LOOSE ET AL.	
	Examiner	Art Unit	
	Robert Mosser	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 June 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

♦

In reply to Appeal Brief filed June 21st, 2004.

New prior art has been applied in the pending claims and resultant of such this action is non-final.

Claims 1-8 are pending.

♦

In view of the appeal brief filed on June 21st, 2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-3,** and **5-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Saffari et al (US 5,769,715) in view of Bruzzese (EP 0789338).

Regarding claims **1, 2,** and **7,** Saffari teaches an electronic video wager system incorporating a video portion (Figure 3) and a non-video-portion (522, 523, & Col 3:2-5). The video portion further contains an integrated touch screen display and player selectable indicia (Col 2:64-3:2) as well as permanent second indicia (522). Saffari however is silent regarding the implementation of the permanent indicia as player selectable indicia and the incorporation of a unitary touch screen across both the video and non-video portions of the display.

In a related application however Bruzzese teaches the incorporation of a unitary touch screen (34) including permanent player selectable indicia. Wherein the unitary touch screen spans across both the immediately adjacent game outcome display and non-game outcome portions of the display. It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the touch screen configuration of Bruzzese as taught above into the video game machine with touch

screen of Saffari in order to reduce the device manufacture cost as taught by Bruzzese (Col 2:18-24).

Regarding claims **3, 5** and **6**, the elements (522) of Saffari may be considered to show the claimed permanent indicia. Alternatively however, Bruzzese teaches the use of an adhesive graphic transfer to create a graphic display or artwork panel as so claimed. Bruzzese further teaches the use of indicia including a "collect" indicia, to indication to the player touch points and their respective function of the artwork panel (Col 3:18-33 & Fig 3).

Regarding claim **8**, Saffari teaches the alteration of the video based indicia based on the progress or state of the game as so claimed (Figure 3).

Claim **4** is rejected under 35 U.S.C. 103(a) as being unpatentable over either Saffari et al (US 5,769,715) in view of Bruzzese (EP 0789338) as applied to claims 1 and 3 above in further view of Bridgeman et al (US 5,033,744).

The invention of Saffari/Bruzzese is silent regarding the selective illumination of indicia through lights located behind the artwork panel in order to indicate which indicia are active and may be selected by the player. However in a related application Bridgeman teaches the use of illuminated mechanical switches in order to indicate to a player that a video gaming machine is ready to accept user input (Figure 2 & Col 5:68-6:2). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the use of illumination to indicate the availability of a switch to accept inputs as taught by Bridgeman into the portion of a touch screen

located over artwork as taught by Saffari/Bruzzese in order to direct the user to game inputs only when said inputs are available.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

GB 2251112A teaches a gamming machine with incorporated touch screen

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM

JESSICA HARRISON
PRIMARY EXAMINER